

v. 2948

No. 14856

United States  
Court of Appeals  
for the Ninth Circuit

WILLIAM RICHARDS, CLANCY HENKINS,  
JOSEPH L. RIEDI, ROBERT S. SCHY and  
LOIS LANE,

Appellants,

vs.

JUNEAU INDEPENDENT SCHOOL DIS-  
TRICT and DOUGLAS INDEPENDENT  
SCHOOL DISTRICT, to Be Known as  
JUNEAU-DOUGLAS INDEPENDENT  
SCHOOL DISTRICT,

Appellees.

Transcript of Record

Appeals from the District Court  
for the District of Alaska,  
Division Number One

FILED

DEC 27 1955

RECORDED & INDEXED



No. 14856

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United States  
Court of Appeals  
for the Ninth Circuit

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS

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Seward Bldg.,  
Juneau, Alaska,

For Appellant.

FAULKNER, BANFIELD & BOOCHEVER, by  
R. BOOCHEVER,

Juneau, Alaska,

For Appellee.



In the District Court for the District of Alaska,  
Division Number One at Juneau

No. 7236-A

In the Matter of:

The Consolidation of the JUNEAU INDEPENDENT SCHOOL DISTRICT and the DOUGLAS INDEPENDENT SCHOOL DISTRICT to Be Known as JUNEAU-DOUGLAS INDEPENDENT SCHOOL DISTRICT

APPLICATION FOR ORDER  
CALLING FOR ELECTION

Comes Now the Douglas Independent School District, by its attorneys, Faulkner, Banfield & Boochever, alleging as follows:

1. The Juneau Independent School District embraces that territory within the Juneau Recording Precinct, First Judicial Division, Territory of Alaska, consisting of approximately 202 square miles, and described as follows, to wit:

Beginning at a point in the center of the Juneau-Douglas brige spanning Gastineau Channel, running thence N. 45 deg. W. 4.59 miles to a point in Gastineau Channel; thence W. 1.72 miles to a point in Gastineau Channel; thence S. 65 deg. W. 3.73 miles to a point lying in a southerly direction from Spuhn Island from which point the center of the Juneau-Douglas bridge bears S. 63 deg. E. 11.10 miles; thence N. 45 deg. E. 2.00 miles; thence N. 63

deg. 00 min. W. 3.30 miles to a point north of Portland Island; thence N. 22 deg. 00 min. W. 25.17 miles to a point lying northwesterly of Benjamin Island; thence N. 68 deg. 00 min. W. 4.50 miles to a point; thence S. 34 deg. 30 min. E. 14.10 miles to a point on Mt. McGinnis; thence S. 54 deg. 00 min. E. 13.41 miles to a point on Mt. Olds; thence S. 30 deg. 40 min. E. 6.61 miles to a point; thence S. 43 deg. 00 min. W. 3.14 miles through Corner No. 4 of U. S. Survey No. 328 to a point in Gastineau Channel; thence N. 47 deg. 00 min. W. 8.03 miles to the center point of the Juneau-Douglas bridge, the point of beginning; containing 202 square miles, more or less.

2. The Douglas Independent School District embraces that territory within the Juneau Recording Precinct, First Judicial Division, Territory of Alaska, consisting of 95.2 square miles, more or less, and described as follows, to wit:

Beginning at a point in the center of the Juneau-Douglas bridge spanning Gastineau Channel, thence N. 45 deg. W. 4.95 miles to a point in the Gastineau Channel; thence W. 1.72 miles to a point in Gastineau Channel southeast of Juneau; thence S. 65 deg. W. 3.73 miles to a point south of Spuhn Island; thence N. 63 deg. W. 3.30 miles to a point north of Portland Island; thence S. 52 deg. 30 min. E. 0.76 miles to a point northwest of Portland Island; thence S. 34 deg. 40 min. E. 9.96 miles to a

point in Stephens Passage west of Douglas Island; thence S. 77 deg. 30 min. E. 13.2 miles to a point in Stephens Passage south of Marmion Island; thence N. 37 deg. 20 min. E. 1.54 miles to a point in Gastineau Channel in direct line between Marmion Island and Point Bishop; thence N. 47 deg. W. 10.04 miles to the center of the Juneau-Douglas bridge, the point of beginning.

3. The combined area of the Juneau Independent School District and the Douglas Independent School District consists of 297.2 square miles, more or less, and is less than 1,000 square miles.

4. Petitions have been signed by 341 voters of the Juneau Independent School District requesting that the Juneau Independent School District and the Douglas Independent School District be consolidated in accordance with the provisions of Ch. 93, S.L.A. 1953. 1,226 persons voted at the last general election held in the Juneau Independent School District and petitioners totalling more than 25% of the number of people who voted in such election have signed the aforesaid petitions, which petitions are attached hereto as Exhibit "A."

5. Petitions have been signed by 74 voters of the Douglas Independent School District requesting that the Juneau Independent School District and the Douglas Independent School District be consolidated in accordance with the provisions of Ch. 93, S.L.A. 1953. 208 persons voted at the last general election held in the Douglas Independent School

District and petitioners totalling more than 25% of the number of people who voted in such election have signed the aforesaid petitions, which petitions are attached hereto as Exhibit "B."

6. Said petitioners have proposed that the name of the consolidated school districts be "Juneau-Douglas Independent School District."

7. The Juneau Independent School District at the present time has a 1% consumers' tax on retail sales, rents and services for the exclusive special purpose of paying installments of principal and interest on indebtedness to be incurred for the purpose of securing and preparing a site for a high school building; constructing and equipping a new high school; and renovating, repairing and equipping the existing Fifth Street Grade School and High School building; which projects, other than the acquisition and preparation of a site, are to be constructed by the Alaska Public Works administration under the Alaska Public Works program and sold to the Juneau Independent School District. In order for taxes in all parts of the proposed consolidated school district to be equal, it will be necessary for the Douglas Independent School District to have a similar 1% sales tax for the purposes specified above. The City of Douglas at the present time has a 1% sales tax for school purposes and the Common Council of the City of Douglas has resolved that said 1% sales tax shall be used for the school purposes specified in the Juneau Independent School District sales tax ordinance, as is more fully

set forth in the attached Resolution No. 201 of the Common Council of the City of Douglas. Since the ordinances of the larger of the independent school districts, according to the number of registered voters in the last general election held therein, shall be in effect upon the entry of an order consolidating the districts, those voters in the Douglas Independent School District lying outside the corporate boundaries of the City of Douglas shall automatically authorize a 1% sales tax in that portion of the Douglas Independent School District in the event that a majority of voters voting at such election are in favor of such consolidation.

Wherefore, applicant prays that this court order an election to be held in the Juneau Independent School District and in the Douglas Independent School District for the purpose of determining whether the people desire such consolidation, and that the court, by said order, fix the date for said election, the place and hours of voting, and appoint three qualified voters in the proposed consolidated school district to supervise and appoint election officers for such election; that the court further order that a printed or typewritten copy of said order be posted in at least three public places within the limits of each of the Independent school districts requesting consolidation for at least thirty days prior to the date of election; and that the qualified electors at said election shall, at the same time, by separate ballot, choose a board of five directors for the consolidated school district who must be qual-

ified electors of the consolidated school district and whose terms of office shall be as specified in Ch. 93, S.L.A. 1953. Said order shall further provide that said election be conducted in the manner specified and in accordance with the provisions of Ch. 93, S.L.A. 1953.

It is Further Prayed that, if a majority of the votes cast at said election in each of the independent school districts is in favor of consolidation, a further order be entered in writing adjudging and declaring that said independent school districts are consolidated, and that the enlarged area shall thenceforth constitute one school district to be known as the Juneau-Douglas Independent School District, in accordance with the provisions of Ch. 93, S.L.A. 1953.

Dated at Juneau, Alaska, this 20th day of January, 1955.

FAULKNER, BANFIELD &  
BOOCHEVER

By /s/ R. BOOCHEVER,

Attorneys for Douglas In-  
dependent School District.

EXHIBIT "A"

Petition

To the Hon. George W. Folta, Judge, District Court  
for the Territory of Alaska, Division Number  
One at Juneau.

We the undersigned voters of the Juneau In-  
dependent School District, being more than 25%



of the number of people who voted in the Juneau Independent School District at the last general election, do hereby petition that the Juneau Independent School District and the Douglas Independent School District be consolidated in accordance with the provisions of Chapter 93, S.L.A. 1953.

The Juneau Independent School District embraces that territory within the Juneau Recording Precinct, First Judicial Division, Territory of Alaska, consisting of approximately 202 square miles, and described as follows, to wit:

Beginning at a point in the center of the Juneau-Douglas bridge spanning Gastineau Channel, Running thence N. 45 deg. W. 4.59 miles to a point in Gastineau Channel; thence W. 1.72 miles to a point in Gastineau Channel; thence S. 65 deg. W. 3.73 miles to a point lying in a southerly direction from Spuhn Island from which point the center of the Juneau-Douglas bridge bears S. 63 deg. E. 11.10 miles; thence N. 45 deg. E. 2.00 miles; thence N. 63 deg. 00 min. W. 3.30 miles to a point north of Portland Island; thence N. 22 deg. 00 min. W. 25.17 miles to a point lying northwesterly of Benjamin Island; thence N. 68 deg. 00 min. W. 4.50 miles to a point; thence S. 34 deg. 30 min. E. 14.10 miles to a point on Mt. McGinnis; thence S. 54 deg. 00 min. E. 13.41 miles to a point on Mt. Olds; thence S. 30 deg. 40 min. E. 6.61 miles to a point; thence S. 43 deg. 00 min. W. 3.14 miles through Corner No. 4 of U. S. Survey No. 328

to a point in Gastineau Channel; thence N. 47 deg. 00 min. W. 8.03 miles to the center point of the Juneau-Douglas bridge, the point of beginning; containing 202 square miles, more or less.

The Douglas Independent School District embraces that territory within the Juneau Recording Precinct, First Judicial Division, Territory of Alaska, consisting of 95.2 square miles, more or less, and described as follows, to wit:

Beginning at a point in the center of the Juneau-Douglas bridge spanning Gastineau Channel, thence N. 45 deg. W. 4.95 miles to a point in the Gastineau Channel; thence W. 1.72 miles to a point in Gastineau Channel southeast of Juneau; thence S. 65 deg. W. 3.73 miles to a point south of Spuhn Island; thence N. 63 deg. W. 3.30 miles to a point north of Portland Island; thence S. 52 deg. 30 min. E. 0.76 miles to a point northwest of Portland Island; thence S. 34 deg. 40 min. E. 9.96 miles to a point in Stephens Passage west of Douglas Island; thence S. 77 deg. 30 min. E. 13.2 miles to a point in Stephens Passage south of Marmion Island; thence N. 37 deg. 20 min. E. 1.54 miles to a point in Gastineau Channel in direct line between Marmion Island and Point Bishop; thence N. 47 deg. W. 10.04 miles to the center of the Juneau-Douglas bridge, the point of beginning.

The Combined area of the Juneau Independent School District and the Douglas Independent School district consists of 297.2 square miles, more or less, and is less than 1,000 square miles.

The proposed name of the consolidated school districts is Juneau-Douglas Independent School District.

[Here follows 8 identical Petitions of Juneau Independent School District with signatures totaling 519.]

### EXHIBIT "B"

#### Petition

To the Hon. George W. Folta, Judge District Court for the Territory of Alaska, Division Number One at Juneau.

We the undersigned voters of the Douglas Independent School District, being more than 25% of the number of people who voted in the Douglas Independent School District at the last general election, do hereby petition that the Douglas Independent School District and the Juneau Independent School District be consolidated in accordance with the provisions of Chapter 93, S.L.A. 1953.

The Douglas Independent School District embraces that Territory within the Juneau Recording Precinct, First Judicial Division, Territory of Alaska, consisting of 95.2 square miles, more or less, and described as follows, to wit:

Beginning at a point in the center of the Juneau-Douglas bridge spanning Gastineau

Channel, thence N. 45 deg. W. 4.95 miles to a point in the Gastineau Channel; thence W. 1.72 miles to a point in Gastineau Channel southeast of Juneau; thence S. 65 deg. W. 3.73 miles to a point south of Spuhn Island; thence N. 63 deg. W. 3.30 miles to a point north of Portland Island; thence S. 52 deg. 30 min. E. 0.76 miles to a point northwest of Portland Island; thence S. 34 deg. 40 min. E. 9.96 miles to a point in Stephens Passage west of Douglas Island; thence S. 77 deg. 30 min. E. 13.2 miles to a point in Stephens Passage south of Marmion Island; thence N. 37 deg. 20 min. E. 1.54 miles to a point in Gastineau Channel in direct line between Marmion Island and Point Bishop; thence N. 47 deg. W. 10.04 miles to the center of the Juneau-Douglas bridge, the point of beginning.

The Juneau Independent School District embraces that Territory within the Juneau Recording Precinct, First Judicial Division, Territory of Alaska, consisting of approximately 202 square miles, and described as follows, to wit:

Beginning at a point in the center of the Juneau-Douglas bridge spanning Gastineau Channel, running thence N. 45 deg. W. 4.59 miles to a point in Gastineau Channel; thence W. 1.72 miles to a point in Gastineau Channel; thence S. 65 deg. W. 3.73 miles to a point lying in a southerly direction from Spuhn Island, from which point the center of the Juneau-Douglas bridge bears S. 63 deg. E. 11.10 miles; thence N. 45 deg. E. 2.00 miles; thence N.

63 deg. 00 min. W. 330 miles to a point north of Portland Island; thence N. 22 deg. 00 min. W. 25.17 miles to a point lying northwesterly of Benjamin Island; thence N. 68 deg. 00 min. W. 4.50 miles to a point; thence S. 34 deg. 30 min. E. 14.10 miles to a point on Mt. McGinnis; thence S. 54 deg. 00 min. E. 13.41 miles to a point on Mt. Olds; thence S. 30 deg. 40 min. E. 6.61 miles to a point; thence S. 43 deg. 00 min. W. 3.14 miles through Corner No. 4 of U. S. Survey No. 328 to a point in Gastineau Channel; thence N. 47 deg. 00 min. W. 8.03 miles to the center point of the Juneau-Douglas bridge, the point of beginning; containing 202 square miles, more or less.

The combined area of the Juneau Independent School District and the Douglas Independent School District consists of 297.2 square miles, more or less, and is less than 1,000 square miles.

The proposed name of the consolidated school districts is Juneau-Douglas Independent School District.

[Here follows 2 identical petitions of Douglas Independent School District with signatures totaling 75.]

[Endorsed]: Filed January 21, 1954.

[Title of District Court and Cause.]

### ORDER CALLING FOR ELECTION

This Matter, coming on to be heard upon the filing of separate petitions by the voters of the Juneau Independent School District and the voters of the Douglas Independent School District, petitions from each of said districts having been signed by voters representing more than 25% of the number of people who voted in the respective independent school districts at the last general election, which petitions request the consolidation of the Juneau Independent School District and the Douglas Independent school District and comply with the requirements of Ch. 93, S.L.A. 1953, and an application having been filed herein by the Douglas Independent School District for an order calling for elections in both of said school districts to determine whether the people desire such consolidation; and good cause having been shown,

It is Hereby Ordered that the prayer contained in said application be and the same is granted.

It is Further Ordered that an election be held in each of said independent school districts, namely, the Juneau Independent School District and the Douglas Independent School District, for the purpose of determining whether the people desire such consolidation, in which event the consolidated school district shall be known as the Juneau-Douglas Independent School District. Said election shall be held between the hours of 7:00 a.m. and 7:00 p.m.

on March 8, 1955, and the voting places for voters in the Juneau Independent School District shall be at the City Hall in the City of Juneau and at DeHart's Store at Auke Bay. The voting places for voters in the Douglas Independent School District shall be at the City Hall in the City of Douglas and at the Herbert Savikko home in West Juneau.

Separate elections shall be held in each of said independent school districts, at which elections the voters shall vote for or against consolidation of said school districts and at the same time, by separate ballot, shall choose a board of five directors for the consolidated school district. A form of printed or written ballot suitable for determining the question of whether the voters in each of said districts are in favor of or against the consolidation of said districts, and providing for the election of five directors who must be qualified electors of the school districts, shall be provided by the judges of election.

Marcus Jensen of Douglas, J. S. Mackinnon of Juneau and Gene Vuille of Juneau, are hereby appointed as election judges and are hereby authorized to appoint election officers for such elections. The judges of election shall, before entering upon their duties of office, take an oath in writing to faithfully and impartially discharge the duties of their trust, and they shall duly canvass and compile the votes cast and issue under their hands and seals a certificate in quadruplicate showing the number of votes cast in favor of consolidation and the number of votes cast against consolidation. One of said certificates, together with all ballots and oaths of the

judges of election, shall immediately be filed with the clerk of the District Court for the District of Alaska at Juneau; another of said certificates shall be filed with the Territorial Board of Education, the third of said certificates shall be filed with the Board of directors of the Juneau Independent School District, and the fourth of said certificates shall be filed with the Board of Directors of the Douglas Independent School District.

It is Further Ordered that printed or typewritten copies of this order shall be posted in at least three public places within the limits of each of the independent school districts requesting consolidation for a period of at least thirty (30) days prior to the date of election, and that such posting shall constitute notice of such elections.

The judges of election shall canvass the votes given in such election for members of the Board of Directors as well as the votes cast for and against consolidation, and said judges shall declare the five candidates who have received the largest number of votes for such office duly elected and shall issue and deliver to them certificates of their election provided that the majority of votes cast in each of such districts have voted for consolidation.

The qualifications of electors at such elections shall be as follows: All citizens of the United States, twenty-one (21) years of age and over, who are actual and bona fide residents of Alaska, who have been such residents continuously during the entire year immediately preceding the election, and who



have been such residents continuously for thirty (30) days next preceding the election in such school district, and who are able to read and write the English language as prescribed by an Act of the United States Congress on March 3, 1927, entitled "An Act to prescribe certain qualifications of voters in the Territory of Alaska, and for other purposes," shall be qualified to vote at such elections; provided, however, that the requirements of this section as to ability to read and write shall not apply to any person who is incapacitated from complying therewith by reason of physical disability alone.

Done in Open Court this 21st day of January, 1955.

[Seal]      /s/ GEORGE W. FOLTA,  
                 District Judge.

[Endorsed]: Filed January 21, 1954.

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Resolution

Whereas, the undersigned were duly appointed as judges of elections by virtue of that certain order calling for an election issued by the District Court for the Territory of Alaska, Division Number One at Juneau, dated January 21, 1955; and

Whereas, elections are to be held for the purpose of determining whether the voters of the Juneau Independent School District and the voters of the Douglas Independent School District are in favor of the consolidation of said school districts under

the name of Juneau-Douglas Independent School District; and

Whereas, at said elections the voters shall at the same time, by separate ballot, choose a board of five directors for the consolidated school district;

Now, Therefore, be it Resolved by the undersigned judges of election that there shall be submitted, or cause to be submitted, to the qualified voters as hereinafter specified to be voted upon at said elections to be held in the Juneau Independent School District and the Douglas Independent School District on March 8, 1955, between the hours of 7:00 a.m. and 7:00 p.m. the following proposal:

#### Proposal

Shall the Juneau Independent School District and the Douglas Independent School District be consolidated under the name of Juneau-Douglas Independent School District, in which event the ordinances of the Juneau Independent School District, being the larger of said school districts according to the number of registered voters at the last general election held therein, shall be in effect in such consolidated school district, including the ordinance providing for a 1% tax on retail sales and services, which tax shall automatically become effective in that portion of the Douglas Independent School District located beyond the corporate limits of the City of Douglas, Alaska, upon entry of an order by the District Court consolidating said school districts. In the event of the approval of this proposal by a majority of the voters of each of said school districts, the

order consolidating said school districts shall be contingent on the Common Council of the City of Douglas amending its 2% retail sales and service tax ordinance so that one-half of the revenues thereof shall be used exclusively for the purposes set forth in the ordinance providing for the Juneau Independent School District retail sales and services tax.

Each ballot shall set forth the above proposition preceded by the instructions:

“Vote for or against the following proposal by placing an ‘x’ in the appropriate box,” and followed by the words:

For Consolidation

Against Consolidation

Be It Further Resolved that a separate form of ballot be prepared for the election of five members of the Board of Directors of the consolidated school district. All candidates for election to the Board of Directors of such consolidated school district, in order to have their names appear on said ballot, must file their applications at the office of the Clerk of the City of Douglas, Alaska, at Douglas, Alaska, or at the office of the Clerk of the City of Juneau, Alaska, at Juneau, Alaska, on or before 12:00 noon, March 4, 1955.

The qualifications of voters in each of the independent school districts at elections shall be as follows:

“All citizens of the United States, twenty-one (21) years of age and over, who are actual and bona fide residents of Alaska, who have been

such residents continuously during the entire year immediately preceding the election, and who have been such residents continuously for thirty (30) days next preceding the election in such school district, and who are able to read and write the English language as prescribed by an Act of the United States Congress on March 3, 1927, entitled, 'An Act to prescribe certain qualifications of voters in the Territory of Alaska, and for other purposes,' shall be qualified to vote at such elections; provided, however, that the requirements of this section as to ability to read and write shall not apply to any person who is incapacitated from complying therewith by reason of physical disability alone.' Section 37-3-44, ACLA 1949.

Be It Further Resolved that, prior to voting, all voters shall first register at the voting places hereinafter designated on the date set for said elections in the registration books which shall be supplied by the judges of election for such purpose, stating the voter's full name and residence address in the district, and such registration shall constitute a declaration that the person so registering is qualified to vote at said election.

The entire area of the Juneau Independent School District shall constitute one voting precinct and there shall be two voting places within said precinct which shall be as follows:

DeHart's Store at Auke Bay, Alaska, and Juneau City Hall, Juneau, Alaska.

The entire area of the Douglas Independent

School District shall constitute one voting precinct and there shall be two voting places within said precinct which shall be as follows:

Herbert Savikko residence, West Juneau, Alaska, and Douglas City Hall, Douglas, Alaska.

Be It Further Resolved that the following named election officials are hereby appointed to assist in the conduct of said elections at the polling places indicated:

DeHart's Store, Auke Bay, Alaska:

Mrs. Beth Ogden  
Mrs. Mabel Reddekopp  
Mrs. Myrtle Lindegaard

Juneau City Hall, Juneau, Alaska:

Harold K. Dawson  
Mrs. Esther Kassner  
Mrs. Mabel Lybeck

Herbert Savikko residence, Douglas, Alaska:

Mrs. Herbert Savikko  
Mrs. Opal Sears  
Mrs. William Helin

Douglas City Hall, Douglas, Alaska:

Mrs. Lucille Weir  
Mrs. Alfred Bonnett  
Mrs. Albert Groskopf

Passed and approved by the undersigned judges of election this 3rd day of February, 1955.

/s/ MARCUS JENSEN,

/s/ J. S. MacKINNON,

/s/ KENNETH E. VUILLE.

[Endorsed]: Filed March 10, 1955.

## OATH OF JUDGES OF ELECTION

We, the undersigned, having been appointed judges for the elections to be held in the Juneau Independent School District and in the Douglas Independent School District on March 8, 1955, being first severally duly sworn according to law, do each depose and say:

I will faithfully and impartially discharge the duties as such judge of election, and shall duly canvass and cancel the votes cast and issue under my hand and seal a certificate in quadruplicate showing the number of votes cast in favor of consolidation and the number of votes cast against consolidation, and which shall also show the number of votes cast for each person who is a candidate for member of the Board of Directors of the consolidated school district; and I will faithfully uphold the constitution and laws of the United States and the laws of the Territory of Alaska, So Help Me God.

/s/ MARCUS JENSEN,

/s/ J. S. MacKINNON,

/s/ KENNETH E. VUILLE.

Subscribed and sworn to before me this 31st day of January, 1955.

[Seal] /s/ R. BOOCHEVER,

Notary Public for Alaska.

My commission expires: November 7, 1955.

[Endorsed]: Filed March 10, 1955.

## CERTIFICATE OF ELECTION

United States of America,  
Territory of Alaska—ss.

We, Kenneth E. Vuille, Marcus Jensen and J. S. MacKinnon, having been appointed judges of election of the certain election held on March 8, 1955, by the Juneau Independent School District and the Douglas Independent School District for the purpose of determining whether the voters of said districts are in favor of the consolidation of said school districts under the name of Juneau-Douglas Independent School District, and for the purpose at the same time of choosing a board of five directors for such consolidated school district, do hereby certify that at said election in the Juneau Independent School District for the purpose of voting on the following proposal:

## Proposal

Shall the Juneau Independent School District and the Douglas Independent School District be consolidated under the name of Juneau-Douglas Independent School District, in which event the ordinances of the Juneau Independent School District, being the larger of said school districts according to the number of registered voters at the last general election held therein, shall be in effect in such consolidated school district, including the ordinance providing for a 1% tax on retail sales and services, which tax shall automatically become effective in that portion of

the Douglas Independent School District located beyond the corporate limits of the City of Douglas, Alaska, upon entry of an order by the District Court consolidating said school districts. In the event of the approval of this proposal by a majority of the voters of each of said school districts, the order consolidating said school districts shall be contingent on the Common Council of the City of Douglas amending its 2% retail sales and service tax ordinance so that one-half of the revenues thereof shall be used exclusively for the purposes set forth in the ordinance providing for the Juneau Independent School District retail sales and services tax;

the results of the balloting were as follows:

Yes .....	702
No .....	239
Number of ballots rejected.....	9
Number of ballots cast.....	950

We do further certify that in the Douglas Independent School District for the purpose of voting on the above set forth proposal, the results of the balloting were as follows:

Yes .....	274
No .....	209
Number of ballots rejected.....	6
Number of ballots cast.....	489

We do further certify that in the voting in regard to candidates for the Board of Directors of the con-



solidated school district, the results of the balloting were as follows:

Name	Number of Votes		
	Juneau	Douglas	Total
F. Dewey Baker .....	648	209	857
Pat Ellsworth .....	422	300	722
Matt K. Gormley .....	555	267	822
John G. Hagmeier .....	597	197	794
Charles H. Jones .....	340	300	640
J. S. MacKinnon, Jr. ....	591	191	782
James P. Orme .....	594	253	847
Curtis G. Shattuek .....	611	227	838
James J. Mahar .....	1		1
Harry Olds .....	1		1
Christian A. Jensen .....	1		1
Glenn G. Oakes .....	1		1
Dr. J. O. Rude .....	1		1
Dr. Wm. Whitehead .....	1		1
Leonard Johnson .....		1	1
Ed Merdes .....		1	1
Dave Brown .....		1	1
Elwin Wright .....		1	1
Wm. Kerns .....		1	1
Number of ballots rejected .....	33	61	94
Number of ballots cast .....	950	489	1,439

/s/ KENNETH E. VUILLE,

/s/ J. S. MacKINNON,

/s/ MARCUS JENSEN.

Severally subscribed and sworn to before me this 10th day of March, 1955.

[Seal] /s/ R. BOOCHEVER,

Notary Public for Alaska.

My commission expires: Nov. 7, 1955.

[Endorsed]: Filed March 10, 1955.

John H. Dimond  
Attorney at Law

P. O. Box 366  
Juneau, Alaska

March 15, 1955.

Honorable George W. Folta,  
United States District Judge,  
Juneau, Alaska.

Re: Consolidation of The Juneau & Douglas  
Independent School Districts,  
No. 7236-A.

Dear Judge Folta:

A regular meeting of the Common Council of the City of Douglas, Alaska, was held on March 14, 1955. There was no quorum at such meeting; there being present only three members of the Council and the Mayor. At such meeting I was directed by the Mayor and the three Councilmen present to advise you of these facts:

1. In the Notice of Election in respect to the consolidation of the Juneau and Douglas Independent School Districts, and in the ballot used at such election which was held on March 8, 1955, it was specified in part as follows:

“ \* \* \* the order consolidating said school districts shall be contingent on the Common Council of the City of Douglas amending its 2% retail sales and service tax ordinance so that one-half of the revenues thereof shall be used exclusively for the purposes set forth in the

ordinance providing for the Juneau Independent School District retail sales and services tax.”

2. At the meeting above referred to, there was presented to the Council for its consideration a petition signed by some 222 “residents and taxpayers of the City of Douglas,” in which it is requested that the “City Council not \* \* \* amend its sales tax ordinance.” This petition, consisting of six pages, is attached hereto.

I should also advise you that on January 10, 1955, there was passed by the Common Council and approved by the Mayor Resolution No. 201 of the City of Douglas, in which it was resolved that said Common Council would amend Section 11 of its sales and services tax ordinance “as soon as possible after such consolidation has been adjudged.” I believe that a certified copy of such Resolution is contained in the file in the above-entitled matter.

3. As soon as the Common Council of the City of Douglas is able to obtain a quorum at some subsequent regular or special meeting, a decision will be made as to whether or not it will amend its sales and services tax ordinance pursuant to Resolution No. 201.

Very truly yours,

/s/ JOHN H. DIMOND,

Attorney for City of Douglas.

JHD:GC

cc: R. Boochever

M. E. Monagle

[To the Common Council of the City of Douglas :

[We the undersigned, being residents and taxpayers of the City of Douglas, do hereby petition the City Council not to amend its sales tax ordinance. Here follows signatures totaling 222.]

[Endorsed]: Filed March 15, 1955.

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[Title of District Court and Cause.]

### AFFIDAVIT OF POSTING

United States of America,  
Territory of Alaska—ss.

I, Elwin B. Dell, being first duly sworn on oath, depose and say :

That on the 26th day of January, 1955, I posted a true, full and correct copy of the order calling for election in the matter of the consolidation of the Juneau Independent School District and the Douglas Independent School District, to be known as the Juneau-Douglas Independent School District, which order is dated January 21, 1955, at three public places within the Juneau Independent School District, namely: one, at DeHart's Grocery Store at Auke Bay, Alaska; two, at the front entrance of the Federal Building, Juneau, Alaska; and, third, at the front entrance of the Juneau City Hall, Juneau, Alaska.

On said date, I did further post true, full and correct copies of said order at the following locations

in the Douglas Independent School District, to wit: One, at the West Juneau Grocery Store at West Juneau, Alaska; two, at the front entrance of the Douglas City Hall, Douglas, Alaska; and, three, at the front entrance of the United States Post Office at Douglas, Alaska.

I do further certify that said notices remained posted until March 9, 1955.

/s/ ELWIN B. DELL.

Subscribed and sworn to before me this 11th day of March, 1955.

[Seal] /s/ KATHRYN ADAMS,  
Notary Public for Alaska.

My commission expires: May 15, 1956.

[Endorsed]: Filed March 15, 1955.

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### FILING OF CANDIDACY

I hereby certify that I am a citizen of the United States of America; twenty-one years of age or over; an actual and bona fide resident of Alaska, and have been such a resident continuously during the entire year immediately preceding March 8, 1955, and have been a resident in either the Juneau or the Douglas Independent School District for thirty days next preceding March 8, 1955; and am able to read and write the English language as prescribed by an Act of the United States Congress on March 3, 1927, entitled "An act to prescribe certain qualifications

of voters in the Territory of Alaska and for other purposes.”

I further certify that I am not a member of the Communist Party or any subversive parties or affiliated with any such party; that I do not believe in, am not a member of, nor do I support any organization that believes in or teaches the overthrow of the United States Government by force or by any illegal or unconstitutional method; that I will defend and support the Constitution of the United States of America, uphold the laws of the Territory of Alaska, and the ordinances of the Juneau-Douglas Independent School District.

I hereby file my name and request same to be placed on the official ballot of the School Board election of the Juneau-Douglas Independent School District to be held on March 8, 1955.

Signature of Candidate:

/s/ CHARLES H. JONES,  
Douglas, Alaska.

[Here follows 7 identical Filing of Candidacy signed by: Pat Ellsworth, Matt K. Gormley, J. S. MacKinnon, Jr., John G. Hagmeier, James P. Orme, Curtis G. Shattuck, and F. Dewey Baker.]

[Endorsed]: Filed March 23, 1955.

In the District Court for the District of Alaska,  
Division Number One, at Juneau

In the Matter of

The Consolidation of the JUNEAU INDEPENDENT SCHOOL DISTRICT and the DOUGLAS INDEPENDENT SCHOOL DISTRICT to Be Known as JUNEAU-DOUGLAS INDEPENDENT SCHOOL DISTRICT

ORDER ESTABLISHING JUNEAU-DOUGLAS INDEPENDENT SCHOOL DISTRICT

It appearing to the Court from the records and file herein that an election was held within the area comprising the Juneau Independent School District and the area comprising Douglas Independent School District on March 8, 1955, for the purpose of determining whether the voters in said school districts desire a consolidation of said school districts and for the further purpose of electing five members of the Board of Directors of the consolidated school district to govern school matters within said consolidated school district, and

It further appearing that all the requirements of Chapter 93, SLA 1953 have been complied with with respect to such election and that at said election the results of the balloting in the Juneau Independent School District were as follows:

For consolidation . . . . .	702
Against consolidation . . . . .	239
Number of ballots rejected . . . . .	9
Number of ballots cast . . . . .	950

and that in the Douglas Independent School District the results of balloting were as follows:

For consolidation . . . . .	274
Against consolidation . . . . .	209
Number of ballots rejected. . . . .	6
Number of ballots cast. . . . .	489

and that the five persons receiving the highest number of votes to the school Board and the number of votes received by each of them were as follows:

F. Dewey Baker. . . . .	857
Matt K. Gormley. . . . .	822
John G. Hagmeier. . . . .	794
James P. Orme. . . . .	847
Curtis G. Shattuck. . . . .	838

Now Therefor, It Is Hereby Ordered, Adjudged and Decreed That the Juneau Independent School District and the Douglas Independent School District be and the same are hereby consolidated and that the area hereinafter described shall be known as the Juneau-Douglas Independent School District. The area so consolidated is bounded and particularly described, to wit:

“Beginning at a point in the center of the Juneau - Douglas bridge spanning Gastineau Channel, running thence N. 45 deg. W. 4.59 miles to a point in Gastineau Channel; thence W. 1.72 miles to a point in Gastineau Channel; thence S. 65 deg. W. 3.73 miles to a point lying in a southerly direction from Spuhn Island from which point the center of the Juneau-Douglas bridge bears S. 63 deg. E. 11.10 miles;



thence N. 45 deg. E. 2.00 miles; thence N. 63 deg. 00 min. W. 3.30 miles to a point north of Portland Island; thence N. 22 deg. 00 min. W. 25.17 miles to a point lying northwesterly of Benjamin Island; thence N. 68 deg. 00 min. W. 4.50 miles to a point; thence S. 34 deg. 30 min. E. 14.10 miles to a point on Mt. McGinnis; thence S. 54 deg. 00 min. E. 13.41 miles to a point on Mt. Olds; thence S. 30 deg. 40 min. E. 6.61 miles to a point; thence S. 43 deg. 00 min. W. 3.14 miles through Corner No. 4 of U. S. Survey No. 328 to a point in Gastineau Channel; thence No. 47 deg. 00 min. W. 8.03 miles to the center point of the Juneau-Douglas bridge, the point of beginning; containing 202 square miles, more or less,

and

“Beginning at a point in the center of the Juneau - Douglas bridge spanning Gastineau Channel, thence N. 45 deg. W. 4.95 miles to a point in the Gastineau Channel; thence W. 1.72 miles to a point in Gastineau Channel southeast of Juneau; thence S. 65 deg. W. 3.73 miles to a point south of Spuhn Island; thence N. 63 deg. W. 3.30 miles to a point north of Portland Island; thence S. 52 deg. 30 min. E. 0.76 miles to a point northwest of Portland Island; thence S. 34 deg. 40 min. E. 9.96 miles to a point in Stephens Passage west of Douglas Island; thence S. 77 deg. 30 min. E. 13.2 miles to a point in Stephens Passage south of Marmion Island;

thence N. 37 deg. 20 min. E. 1.54 miles to a point in Gastineau Channel in direct line between Marmion Island and Point Bishop; thence N. 47 deg. W. 10.04 miles to the center of the Juneau - Douglas bridge, the point of beginning," containing 95.2 square miles, more or less;

It Is Further Adjudged and Decreed that the following persons have been duly elected as Directors of the School Board or Board of Directors of the Juneau-Douglas Independent School District to serve until their successors are duly elected and qualified: F. Dewey Baker, Matt K. Gormley, John G. Hagmeier, James P. Orme, Curtis G. Shattuck;

It Is Further Ordered, Adjudged and Decreed That the Juneau-Douglas Independent School District is granted full power and authority to exercise the powers granted by law to such consolidated school districts under the provisions of Chapter 93, SLA, 1953, and other applicable laws of Alaska and pursuant to its own ordinances, providing that the ordinances of the larger of the independent or incorporated school districts, according to the number of registered voters in the last election held therein, so consolidated shall be in effect upon the effective date of this order;

It Is Further Ordered, Adjudged and Decreed That all assets of each of the independent school districts shall become the property of the consolidated school district and all the liabilities of each of the independent school districts shall become the

liabilities of the consolidated school district upon the effective date of this order;

It Is Further Ordered that the members of the School Board or Board of Directors above mentioned shall severally take an oath in writing to faithfully and honestly discharge the duties of their office and file the same with the Clerk of this Court before entering upon the discharge of their duties;

It Is Further Ordered, Adjudged and Decreed That the effective date of this Order shall be April 1, 1955.

Done in open court this 18th day of March, 1955.

/s/ GEORGE W. FOLTA,  
Judge.

Telegram

Official Business—Government Rates

Night Letter

March 18, 1955.

From: Geo. W. Folta, District Judge, Anchorage, Alaska.

To: J. W. Leivers, Clerk of Court, Juneau, Alaska.

Have signed order establishing the Juneau-Douglas Independent School District. Order mailed today. Notify Boochever.

[Endorsed]: Filed March 22, 1955.

[Title of District Court and Cause.]

PETITION FOR LEAVE TO APPEAR BY MOTION AND FOR AN ORDER TO ALTER AND AMEND THE JUDGMENT AND ORDER HEREIN AND FOR NEW TRIAL AND HEARING

Robert S. Schy and Lois Lane, both permanent residents and inhabitants, qualified electors and taxpayers within the boundaries of the Douglas Independent School District, either within or without the boundaries of the Municipality of Douglas, Alaska, and signers of and parties to the petition hereto attached and made a part hereof the same as though herein specifically set forth, and further petition this Honorable Court for leave to appear herein by this motion, and for the Court's consideration and granting of this Motion, whereby movants move that that certain Order, Judgment and Decree made and entered herein on March 18, 1955, consolidating the Juneau Independent School District and the Douglas Independent School District as the Juneau-Douglas Independent School District, be vacated and set aside or altered or amended, or that a new trial be granted and movants authorized to appear and defend on their own behalf and on behalf of all persons similarly situated, and all persons who have signed the attached petition; and, in support of this motion state:

1. That the Notices of election and the ballots used at the election of March 8, 1955, in accordance

with the order of the above-entitled Court dated January 21st, 1955, presented the following proposal to electors at said election, to wit:

### Proposal

Shall the Juneau Independent School District and the Douglas Independent School District be consolidated under the name of Juneau-Douglas Independent School District, in which event the ordinances of the Juneau Independent School District, being the larger of said school districts according to the number of registered voters at the last general election held therein, shall be in effect in such consolidated school district, including the ordinances providing for a 1% tax on retail sales and services, which tax shall automatically become effective in that portion of the Douglas Independent School District located beyond the corporate limits of the City of Douglas, Alaska, upon entry of an order by the District Court consolidating said school districts. In the event of the approval of this proposal by a majority of the voters of each of said school districts, the order consolidating said school districts shall be contingent on the Common Council of the City of Douglas amending its 2% retail sales and service tax ordinance so that one-half of the revenues thereof shall be used exclusively for the purposes set forth in the ordinance providing for the Juneau Independent School District retail sales and services tax.

—For Consolidation

—Against Consolidation

2. That the Common Council of the City of Douglas, Alaska, has not amended its 2% retail sales and service tax ordinance so that one-half of the revenue thereof shall be used exclusively for the purposes set forth in the ordinance providing for the Juneau Independent School District Retail Sales and Service tax as provided for in the Notice of election and the Official ballot of election of March 8, 1955, but on the contrary, the municipal council of the City of Douglas, Alaska, at a regular meeting held on March 18, 1955, voted in opposition and against amending its sales tax ordinance so as to conform to the proposition or proposal so presented to the voters in the notice of election and on the ballots at said election on said consolidation question on March 8, 1955.

3. That there are only six members of the Common Council of the Municipality of Douglas, Alaska, which is situated within the boundaries of the Douglas Independent School District, and if there is a tie in any vote on any proposition before said Council requiring a vote to be taken the Mayor of said Municipality has the right to cast the deciding vote. That three members of the Common Council and the Mayor of the Municipal Corporation of Douglas, Alaska, are movants herein and have refused to vote and will not vote to amend its 2% retail sales and service tax ordinance, and therefore said Douglas retail sales and service tax cannot be amended so that one-half of the revenue thereof shall be used exclusively for the purpose set forth

in the ordinance providing for the Juneau Independent School District Retail sales and service tax.

4. That it would be illegal for the Common Council of the City of Douglas, Alaska, to amend its 2% retail sales and service tax ordinance without a vote of the residents within the municipality of Douglas, Alaska, for the reason that Chapter 28, Session Laws of Alaska, 1949, provides as follows:

“It is also the intent that if consent to such tax be obtained for a special purpose, the proceeds of the tax may not be used for any other purpose unless with the consent of the voters at another referendum.”

and Chapter 121, Session Laws of Alaska, 1953, also contains these exact words, and therefore, even if the common council of the City of Douglas, Alaska, attempted to amend its 2% retail sales and service tax in order to comply with the contingency set forth in the Notice of Election and in the ballots at said election of March 8, 1955, said action would be illegal and contrary to law since the voters of the municipality of Douglas, Alaska, did not authorize the levy and collection of the sales tax to be used for school purposes or for the construction of or maintenance of any school outside of the incorporated limits of the City of Douglas, Alaska.

5. That there is no legal ordinance in effect in the Municipal Corporation of Juneau, Alaska, or in the Juneau Independent School District, legally providing for a 1% tax on sales and services. There

is an ordinance that purports to levy a sales tax on retail sales and services, and also an ordinance that purports to amend the City of Juneau Sales Tax Ordinance No. 338 to include a sales tax on "Rents," but neither said Ordinance No. 338 nor Ordinance No. 369 of the City of Juneau, Alaska, are legal or of any binding effect on the residents of Juneau, Alaska, or Juneau Independent School District.

6. That a majority of the residents and inhabitants of the Municipal Corporation of Douglas, Alaska, voted against consolidation of the Juneau Independent School District and Douglas Independent School District, and a majority of the residents of Douglas, Alaska, are opposed to being required to contribute retail sales, service, and rental taxes collected wholly within the limits of the municipality of Douglas, Alaska, towards the construction of school buildings or for any other purpose outside of the limits of the corporate boundaries of said municipality.

7. That a great many of the petitioners who signed their names to the attached petition voted "For Consolidation" after they were persuaded by mis-statements and misrepresentations that it would be to the advantage of the children and also the residents of the Douglas Independent School District for the Juneau and Douglas Independent School Districts to be consolidated. One material misrepresentation or misleading statement was that no taxes were paid to the Douglas Independent



School District by the Cedar Park Housing Project. While this statement was probably true it was misleading in that Cedar Park Housing Project does not pay taxes as such, but in fact pays an amount equal to taxes, but "in lieu of taxes." Another statement which was made by a Territorial School Official that influenced some of your petitioners to vote in favor of consolidation, and which was very misleading was the statement that the Harborview school in the Juneau Independent School District was being paid for by collections from the Tobacco Tax. From information obtained since the election of March 8, 1955, your petitioners are informed and believe and therefore allege that said statement so made by a Territorial School Official was and is untrue and was made for the sole purpose of misleading the voters and your petitioners in order to get them to vote in favor of the consolidation of the Juneau and Douglas Independent School Districts. The Officials of the Schools also convinced some of the electors to vote in favor of consolidation of the two school districts by stating that by consolidating the two school districts that two less school teachers would be required and that this would save the School Districts the sum of \$10,000.00. Your petitioners have since learned that this statement was not true, and that the total cash cost to the School District of having the two teachers was only \$2,000.00, and that the balance of their wages was paid by contribution from the Territory of Alaska.

8. For further reasons to be shown to the Court at the time of the hearing of this motion.

Dated at Juneau, Alaska, this 28th day of March, 1955.

ROBERTSON, MONAGLE &  
EASTAUGH.

By /s/ M. E. MONAGLE,  
Attorney for Movants.

We, being residents and taxpayers of the Douglas School District pray the District Court to Rescind action on Consolidation of the Juneau and Douglas School Districts, due to misleading information received prior to and during the consolidation election.

[Here follows 290 signatures.]

Receipt of copy acknowledged.

[Endorsed]: Filed March 28, 1955.

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[Title of District Court and Cause.]

PETITION FOR LEAVE TO APPEAR BY MOTION AND FOR AN ORDER TO ALTER AND AMEND THE JUDGMENT AND ORDER HEREIN AND FOR NEW TRIAL AND HEARING

William Richards, Clancy Henkins, Joseph L. Riedi, and Marvin Barkdoll, all permanent residents and inhabitants, qualified electors, property owners and taxpayers of the Municipal Corpora-

tion of Douglas, Alaska, appear herein for themselves and for all other permanent residents and inhabitants who are qualified electors, property owners and taxpayers within said municipality of Douglas, Alaska, who are parties to the petition signed by some 222 residents of Douglas, Alaska, and heretofore filed in the above-entitled Court and Cause, and petition the above Honorable Court for leave to appear herein by this motion, and for the Court's consideration and granting of this Motion, whereby Movants move that that certain Order, Judgment and Decree made and entered herein on March 18, 1955, consolidating the Juneau Independent School District and the Douglas Independent School District as the Juneau-Douglas Independent School District, be vacated and set aside, or altered or amended, or that a new trial be granted and Movants authorized to appear and defend on their own behalf and on behalf of all other persons similarly situated; and, in support of this motion state:

1. That the Notices of election and the ballots used at the election of March 8, 1955, in accordance with the order of the above-entitled Court dated January 21st, 1955, presented the following proposal to electors at said election, to wit:

#### Proposal

Shall the Juneau Independent School District and the Douglas Independent School District be consolidated under the name of Juneau-Douglas Independent School District, in which event the ordinances of the Juneau Independent School District, being the larger of said school districts according to the num-

ber of registered voters at the last general election held therein, shall be in effect in such consolidated school district, including the ordinances providing for a 1% tax on retail sales and services, which tax shall automatically become effective in that portion of the Douglas Independent School District located beyond the corporate limits of the City of Douglas, Alaska, upon entry of an order by the District Court consolidating said school districts. In the event of the approval of this proposal by a majority of the voters of each of said school districts, the order consolidating said school districts shall be contingent on the Common Council of the City of Douglas amending its 2% retail sales and service tax ordinance so that one-half of the revenues thereof shall be used exclusively for the purposes set forth in the ordinance providing for the Juneau Independent School District retail sales and services tax.

—For Consolidation

—Against Consolidation

2. That the Common Council of the City of Douglas, Alaska, has not amended its 2% retail sales and service tax ordinance so that one-half of the revenue thereof shall be used exclusively for the purposes set forth in the ordinance providing for the Juneau Independent School District Retail Sales and Service tax as provided for in the Notice of election and the Official ballot of election of March 8, 1955, but on the contrary, the municipal council of the City of Douglas, Alaska, at a regular meeting held on March 18, 1955, voted in opposition and against amending its sales tax ordinance so as

to conform to the proposition or proposal so presented to the voters in the notice of election and on the ballots at said election on said consolidation question on March 8, 1955.

3. That there are only six members of the Common Council of the Municipality of Douglas, Alaska, which is situated within the boundaries of the Douglas Independent School District, and if there is a tie in any vote on any proposition before said Council requiring a vote to be taken the Mayor of said Municipality has the right to cast the deciding vote. That three members of the Common Council and the Mayor of the Municipal Corporation of Douglas, Alaska, are movants herein and have refused to vote and will not vote to amend its 2% retail sales and service tax ordinance, and therefore said Douglas retail sales and service tax cannot be amended so that one-half of the revenue thereof shall be used exclusively for the purpose set forth in the ordinance providing for the Juneau Independent School District Retail sales and service tax.

4. That it would be illegal for the Common Council of the City of Douglas, Alaska, to amend its 2% retail sales and service tax ordinance without a vote of the residents within the municipality of Douglas, Alaska, for the reason that Chapter 28, Session Laws of Alaska 1949, provides as follows:

“It is also the intent that if consent to such tax be obtained for a special purpose, the proceeds of the tax may not be used for any other purpose unless with the consent of the voters at another referendum.”

and Chapter 121, Session Laws of Alaska, 1953, also contains these exact words, and therefore, even if the common council of the City of Douglas, Alaska, attempted to amend its 2% retail sales and service tax in order to comply with the contingency set forth in the Notice of Election and in the ballots at said election of March 8, 1955, said action would be illegal and contrary to law since the voters of the municipality of Douglas, Alaska, did not authorize the levy and collection of the sales tax to be used for school purposes or for the construction of or maintenance of any school outside of the incorporated limits of the City of Douglas, Alaska.

5. That there is no legal ordinance in effect in the Municipal Corporation of Juneau, Alaska, or in the Juneau Independent School District, legally providing for a 1% tax on sales and services. There is an ordinance that purports to levy a sales tax on retail sales and services, and also an ordinance that purports to amend the City of Juneau Sales Tax Ordinance No. 338 to include a sales tax on "Rents," but neither said Ordinance No. 338 nor Ordinance No. 369 of the City of Juneau, Alaska, are legal or of any binding effect on the residents of Juneau, Alaska, or Juneau Independent School District.

6. That a majority of the residents and inhabitants of the Municipal Corporation of Douglas, Alaska, voted against consolidation of the Juneau Independent School District and Douglas Independent School District, and a majority of the residents of Douglas, Alaska, are opposed to being required

to contribute retail sales, service, and rental taxes collected wholly within the limits of the municipality of Douglas, Alaska, towards the construction of school buildings or for any other purpose outside of the limits of the corporate boundaries of said municipality.

7. That Chapter 93, Session Laws of Alaska, 1953, under which said election of March 8, 1955, was held and the law under which the Honorable Court's Order of March 18, 1955, was entered attempts to authorize the residents outside of a Municipality to determine by ballot whether the residents within a Municipality shall be consolidated with a school district in which another Municipality is situated, and attempts to deprive the Citizens of Douglas, Alaska, of the right to govern themselves, by providing that the Ordinances of Juneau Independent School District will govern within the boundaries of the Townsite and Municipality of Douglas, Alaska.

8. That Chapter 93, Session Laws of Alaska, 1953, is also unconstitutional in that it attempts to deprive Movants and all other residents and inhabitants of the Municipality of Douglas, Alaska, of their property without due process of law, and attempts to deprive the Municipal Corporation of Douglas, Alaska, of its property without due process of law.

9. That Chapter 93, Session Laws of Alaska, 1953, under the terms and conditions of which said

election of March 8, 1955, was held is also unconstitutional for the reason that it provides that the residents and inhabitants of the Municipal Corporation of Douglas, Alaska, shall hereafter be governed by the Ordinances in effect in the Juneau Independent School District, and deprives the inhabitants of Douglas, Alaska, of the exclusive right to govern themselves.

10. For further reasons to be shown to the Court at the time of the hearing of this motion.

Dated at Juneau, Alaska, this 28th day of March, 1955.

ROBERTSON, MONAGLE &  
ESTAUGH,

By /s/ M. E. MONAGLE,  
Attorney for Movants.

Receipt of copy acknowledged.

[Endorsed]: Filed March 28, 1955.

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#### OATH OF DIRECTOR

United States of America,  
Territory of Alaska.

I, John G. Hagmeier, do solemnly swear that I will faithfully and honestly perform all the duties devolving upon me as a member of the Board of Directors of the Juneau-Douglas Independent



School District, to which office I was elected on March 8, 1955.

/s/ JOHN G. HAGMEIER.

Subscribed and sworn to before me this 1st day of April, 1955.

[Seal] /s/ R. BOOCHEVER,  
Notary Public for Alaska.

My commission expires: November 7, 1955.

[Here follows Oath of Director signatures of: James P. Orme, Curtis G. Shattuck, F. Dewey Baker and Matt K. Gormley.]

[Endorsed]: Filed April 1, 1955.

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[Title of District Court and Cause.]

MINUTE ENTRY—APRIL 22, 1955

This case came on for hearing arguments on two Petitions for leave to appear to alter and amend Judgment. Robert Boochever appeared in behalf of the School Boards; M. E. Monagle for the Petitioners. Counsel argued the matter following which the court took the question under advisement.

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[Title of District Court and Cause.]

MINUTE ENTRY—APRIL 23, 1955

The court having heard arguments on the petitions filed which asked to Alter and Amend the Order of Consolidation, at this time ruled that the petitions would be denied.

[Title of District Court and Cause.]

NOTICE OF APPEAL TO THE UNITED  
STATES COURT OF APPEALS UNDER  
RULE 73 (b)

Notice Is Hereby Given that Robert S. Schy and Lois Lane, petitioners for leave to appear by motion and for an order to alter and amend the Judgment and Decree entered in the above-entitled case on March 18, 1955, and for a new trial and hearing, hereby appeal to the United States Court of Appeals for the Ninth Circuit from that certain Judgment and Decree made and entered in the above-entitled action on March 18, 1955, and that certain Final Order filed in this action on April 23, 1955, denying their petition and motion for leave to appear by motion and for an order to alter and amend said Judgment and Decree of March 18, 1955, and for a new trial and hearing.

Dated at Juneau, Alaska, this 20th day of May, 1955.

ROBERTSON, MONAGLE &  
EASTAUGH,

Attorneys for Appellants Rob-  
ert S. Schy and Lois Lane,

By /s/ M. E. MONAGLE.

Receipt of copy acknowledged.

[Endorsed]: Filed May 21, 1955.

[Title of District Court and Cause.]

NOTICE OF APPEAL TO THE UNITED  
STATES COURT OF APPEALS UNDER  
RULE 73(b)

Notice Is Hereby Given that William Richards, Clancy Henkins and Joseph L. Riedi, petitioners for leave to appear by motion and for an order to alter and amend the Judgment and Decree entered in the above-entitled case on March 18, 1955, and for a new trial and hearing, hereby appeal to the United States Court of Appeals for the Ninth Circuit from that certain Judgment and Decree made and entered in the above-entitled action on March 18, 1955, and that certain Final Order filed in this action on April 23, 1955, denying their petition and motion for leave to appear by motion and for an order to alter and amend said Judgment and Decree of March 18, 1955, and for a new trial and hearing.

Dated at Juneau, Alaska, this 20th day of May, 1955.

ROBERTSON, MONAGLE &  
EASTAUGH,

Attorneys for Appellants William Richards, Clancy  
Hankins and Joseph L. Riedi.

By /s/ M. E. MONAGLE.

Receipt of copy acknowledged.

[Endorsed]: Filed May 21, 1955.

[Title of District Court and Cause.]

### COST BOND ON APPEAL

Whereas, Robert S. Schy and Lois Lane, the petitioners in the above proceedings, have appealed to the United States Court of Appeals for the Ninth Circuit, from that certain Judgment and Decree entered in the above-entitled case on March 18, 1955, wherein and whereby in the above proceedings the District Court for the Territory of Alaska, First Judicial Division, at Juneau, Alaska, ordered Juneau Independent School District and Douglas Independent School District consolidated as the Juneau-Douglas Independent School District, and from that certain Order, made and entered in said proceedings on April 23, 1955, denying the petition of said Robert S. Schy and Lois Lane for leave to appear by motion and for an order to alter and amend the Judgment and Decree entered herein on March 18, 1955, and for a new trial and hearing;

Whereas, said petitioners and appellants and their sureties have appeared herein and submitted to the jurisdiction of the Court and have undertaken to make good and pay all taxable costs and charges, not exceeding the sum of Two Hundred Fifty (\$250.00) Dollars that the appellees may be put to or allowed if said appeal is dismissed or the Judgment affirmed, or such costs as the Appellate Court may award if the Judgment is modified;

Now, Therefore, in consideration of the premises and such appeal, we, Robert S. Schy and Lois Lane, petitioners and appellants herein, as principals, and

Clancy Henkins and Joseph L. Riedi, as sureties, do hereby jointly and severally undertake and promise, and acknowledge ourselves bound in the sum of Two Hundred Fifty (\$250.00) Dollars that the petitioners and appellants, Robert S. Schy and Lois Lane, will satisfy in full and pay and make good all taxable costs and charges not exceeding the sum of \$250.00 that the appellees may be put to or allowed if the appeal is dismissed or the Judgment affirmed, or such costs as the Appellate Court may award if the Judgment is modified.

In Witness Whereof, the parties to this undertaking and bond have hereto set their respective hands and seals at Juneau, Alaska, this 20th day of May, 1955.

[Seal]     /s/ ROBERT S. SCHY,  
                        Principal.

[Seal]     /s/ LOIS LANE,  
                        Principal.

[Seal]     /s/ CLANCY HENKINS,  
                        Surety.

[Seal]     /s/ JOSEPH L. RIEDI,  
                        Surety.

Executed in the presence of:

/s/ M. E. MONAGLE,  
/s/ F. O. EASTAUGH,  
/s/ M. E. MONAGLE,  
/s/ F. O. EASTAUGH,

United States of America,  
Territory of Alaska—ss.

Clancy Henkins and Joseph L. Riedi, being first duly sworn, each for himself and not one for the other, deposes and says: That I am a resident of the Territory of Alaska; that I am not a counselor or attorney at law; that I am not a marshal, deputy marshal, commissioner, clerk of any court or other officer of any court; that I am worth the sum of Five Hundred (\$500.00) Dollars over and above all my debts and liabilities and exclusive of property exempt from execution.

/s/ CLANCY HENKINS,

/s/ JOSEPH L. RIEDI.

Subscribed and Sworn to before me at Juneau, Alaska, this 20th day of May, 1955.

[Seal] /s/ M. E. MONAGLE,

Notary Public for Alaska.

My commission expires: March 1, 1958.

Receipt of copy acknowledged.

[Endorsed]: Filed May 21, 1955.

[Title of District Court and Cause.]

### COST BOND ON APPEAL

Whereas, William Richards, Clancy Henkins and Joseph L. Riedi, the petitioners in the above proceedings, have appealed to the United States Court of Appeals for the Ninth Circuit, from that certain Judgment and Decree entered in the above-entitled case on March 18, 1955, wherein and whereby in the above proceedings the District Court for the Territory of Alaska, First Judicial Division, at Juneau, Alaska, ordered Juneau Independent School District and Douglas Independent School District consolidated as the Juneau-Douglas Independent School District, and from that certain Order, made and entered in said proceedings on April 23, 1955, denying the petition of said William Richards, Clancy Henkins and Joseph L. Riedi for leave to appear by motion and for an order to alter and amend the Judgment and Decree entered herein on March 18, 1955, and for a new trial and hearing;

Whereas, said petitioners and appellants and their sureties have appeared herein and submitted to the jurisdiction of the Court and have undertaken to make good and pay all taxable costs and charges, not exceeding the sum of Two Hundred Fifty (\$250.00) Dollars that the appellees may be put to or allowed if said appeal is dismissed or the Judgment affirmed, or such costs as the Appellate Court may award if the Judgment is modified;

Now, Therefore, in consideration of the premises

and such appeal, we, William Richards, Clancy Henkins and Joseph L. Riedi, petitioners and appellants herein, as principals, and Robert S. Schy and William Boehl, as sureties, do hereby jointly and severally undertake and promise, and acknowledge ourselves bound in the sum of Two Hundred Fifty (\$250.00) Dollars that the petitioners and appellants, William Richards, Clancy Henkins and Joseph L. Riedi, will satisfy in full and pay and make good all taxable costs and charges not exceeding the sum of \$250.00 that the appellees may be put to or allowed if the appeal is dismissed or the Judgment affirmed, or such costs as the Appellate Court may award if the Judgment is modified.

In Witness Whereof, the parties to this undertaking and bond have hereunto set their respective hands and seals at Juneau, Alaska, this 20th day of May, 1955.

[Seal]      /s/ CLANCY HENKINS,  
Principal.

[Seal]      /s/ JOSEPH L. RIEDI,  
Principal.

[Seal]      /s/ LAWRENCE W. RICHARDS,  
Principal.

[Seal]      /s/ ROBERT S. SCHY,  
Surety.

[Seal]      /s/ WILLIAM BOEHL,  
Surety.



Executed in the presence of:

/s/ M. E. MONAGLE,  
/s/ F. O. EASTAUGH,  
/s/ M. E. MONAGLE,  
/s/ F. O. EASTAUGH,

United States of America,  
Territory of Alaska—ss.

Robert S. Schy and William Boehl, being first duly sworn, each for himself and not one for the other, deposes and says: That I am a resident of the Territory of Alaska; that I am not a counselor or attorney at law; that I am not a marshal, deputy marshal, commissioner, clerk of any court or other officer of any court; that I am worth the sum of Five Hundred (\$500.00) Dollars over and above all my debts and liabilities and exclusive of property exempt from execution.

/s/ ROBERT S. SCHY,  
/s/ WILLIAM BOEHL.

Subscribed and Sworn to before me at Juneau, Alaska, this 20th day of May, 1955.

[Seal] /s/ M. E. MONAGLE,  
Notary Public for Alaska.

My commission expires: March 1, 1958.

Receipt of copy acknowledged.

[Endorsed]: Filed May 21, 1955.

[Title of District Court and Cause.]

MOTION TO EXTEND TIME TO DOCKET  
RECORD ON APPEAL

Petitioners and appellants, William Richards, Clancy Henkins, and Joseph L. Riedi, move the Court for an Order extending the time for docketing the record on appeal in this action so as to allow said petitioners and appellants up to and including August 18, 1955, to file the record on appeal and docket the same in the United States Court of Appeals for the Ninth Circuit.

Dated at Juneau, Alaska, this 20th day of June, 1955.

ROBERTSON, MONAGLE &  
EASTAUGH,

Attorneys for Petitioners and  
Appellants;

By /s/ M. E. MONAGLE,  
Of Attorneys.

[Here follows an identical motion by Robert S. Schy and Lois Lane.]

Receipt of copy acknowledged.

[Endorsed]: Filed June 21, 1955.

[Title of District Court and Cause.]

ORDER

This matter came on this day to be heard before the Court at Anchorage, Alaska, on the motion of petitioners and appellants, Robert S. Schy and Lois Lane, for an order extending the time for docketing the record on appeal in this action.

It is hereby Ordered:

That the time for filing the record on appeal and docketing the appeal in the United States Court of Appeals for the Ninth Circuit in this action is extended to and including August 15, 1955.

Dated at Anchorage, Alaska, this 21st day of June, 1955.

/s/ JOHN L. McCARRY, JR.,  
District Judge.

Approved:

/s/ N. C. BANFIELD,  
Attorney for Respondent.

[Endorsed]: Filed and entered June 21, 1955.

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[Title of District Court and Cause.]

ORDER

This matter came on this day to be heard before the Court at Anchorage, Alaska, on the motion of petitioners and appellants, William Richards, Clancy Henkins and Joseph L. Riedi, for an order

extending the time for docketing the record on appeal in this action.

It is hereby Ordered:

That the time for filing the record on appeal and docketing the appeal in the United States Court of Appeals for the Ninth Circuit in this action is extended to and including August 15, 1955.

Dated at Anchorage, Alaska, this 21st day of June, 1955.

/s/ JOHN L. McCARRY, JR.,  
District Judge.

Approved:

/s/ N. C. BANFIELD,  
Attorney for Respondent.

[Endorsed]: Filed and entered June 21, 1955.

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[Title of District Court and Cause.]

MINUTE ENTRY—JUNE 21, 1955

Upon the filing of a Motion to Extend time to Docket Record on Appeal by William Richards, Clancy Henkins, Joseph L. Riedi, Robert S. Schy and Lois Lane, the Court at this time signed Orders extending the time for docketing the record on appeal for the Ninth Circuit to and including August 15, 1955.

[Title of District Court and Cause.]

PRAECIPE FOR APPEAL RECORD

To J. W. Leivers, Clerk of the Above Court :

Kindly promptly prepare and certify under your official seal, for inclusion in the record on appeal, the above Court's complete record, including all docket entries, and all the proceedings and evidence in the above action, and promptly forward the same to the Honorable United States Court of Appeals for the Ninth Circuit.

Dated at Juneau, Alaska, this 10th day of August, 1955.

ROBERTSON, MONAGLE &  
EASTAUGH,  
Attorneys for Appellants.

By /s/ M. E. MONAGLE,  
Of Attorneys.

Receipt of copy acknowledged.

[Endorsed]: Filed August 11, 1955.

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[Title of District Court and Cause.]

STATEMENT OF POINTS TO BE RELIED  
UPON BY APPELLANTS

Appellants propose on their Appeal to the United States Circuit Court of Appeals in the above Cause to rely upon the following points as error:

1. The Trial Court erred in making and entering

its Order of March 18, 1955, establishing Juneau-Douglas Independent School District.

2. The Trial Court erred in refusing to grant the petition of Appellants, Robert S. Schy and Lois Lane, the right to appear herein and in refusing to alter and amend the Order of Consolidation—established Juneau-Douglas Independent School District—and in refusing to grant them a new trial and hearing.

3. The Court erred in not granting Robert S. Schy and Lois Lane and other inhabitants, qualified electors and taxpayers a fair and impartial trial or hearing and did not accord them the process of law or a fair opportunity to present their evidence in opposition to the consolidation of Juneau Independent School District and Douglas Independent School District to be known as Juneau-Douglas Independent School District.

4. The Trial Court erred in refusing to alter and amend its Judgment and Order entered herein on March 18, 1955, establishing the Juneau-Douglas Independent School District.

5. The Trial Court erred in entering its Minute Order of April 23, 1955, denying Appellants' Petition for leave to Appeal and for an Order to alter and amend the Judgment and Order of said Court entered on March 18, 1955, and denying the Petition of Appellants for a new trial and hearing.

Dated at Juneau, Alaska, this 10th day of August, 1955.

ROBERTSON, MONAGLE &  
EASTAUGH,

Attorneys for Robert S. Schy  
and Lois Lane.

By /s/ M. E. MONAGLE,  
Of Attorneys.

Receipt of copy acknowledged.

[Endorsed]: Filed August 11, 1955.

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[Title of District Court and Cause.]

CLERK'S CERTIFICATE

United States of America,  
Territory of Alaska,  
First Division—ss.

I, J. W. Leivers, Clerk of the District Court for the Territory of Alaska, First Division thereof, do hereby certify that the hereto-attached pleadings are the original pleadings and all Orders of the Court filed in the above-entitled cause, and constitutes the entire file in said cause as designated by the Appellant to constitute the record on appeal herein.

In Witness Whereof, I have hereunto set my hand and caused the seal of the above-entitled court to be affixed at Juneau, Alaska, this 11th day of August, 1955.

[Seal] /s/ J. W. LEIVERS,

Clerk of District Court.

[Endorsed]: No. 14856. United States Court of Appeals for the Ninth Circuit. William Richards, Clancy Henkins, Joseph L. Riedi, Robert S. Schy and Lois Lane, Appellants, vs. Juneau Independent School District and Douglas Independent School District, to be known as Juneau-Douglas Independent School District, Appellees. Transcript of Record. Appeals from the District Court for the District of Alaska, Division No. 1.

Filed August 15, 1955.

/s/ PAUL P. O'BRIEN,  
Clerk of the United States Court of Appeals for the  
Ninth Circuit.



In the United States Court of Appeals  
for the Ninth Circuit

No. 14856

WILLIAM RICHARDS, CLANCY HENKINS,  
and JOSEPH L. RIEDI,

Appellants.

vs.

JUNEAU INDEPENDENT SCHOOL DIS-  
TRICT and the DOUGLAS INDEPENDENT  
SCHOOL DISTRICT, to Be Known as  
JUNEAU - DOUGLAS INDEPENDENT  
SCHOOL DISTRICT,

Appellees.

#### APPELLANTS' STATEMENT OF POINTS

Appellants propose on their Appeal to the United States Court of Appeals for the Ninth Circuit in the above Cause to rely upon the following points as error:

1. Under the laws of the Territory of Alaska authorizing the consolidating of two or more independent or incorporated school districts (Chapter 93, Session Laws of Alaska 1953), a printed or type-written copy of the Order of the Judge of the District Court must be posted in at least three public places for at least thirty days prior to the day of election as required by said law, and the trial Court erred in not requiring that the proposal set forth on the election ballot used in said school district elec-

In the United States Court of Appeals  
for the Ninth Circuit

No. 14856

ROBERT S. SCHY, LOIS LANE, WILLIAM  
RICHARDS, CLANCY HENKINS, and JO-  
SEPH L. RIEDI,

Appellants,

vs.

JUNEAU INDEPENDENT SCHOOL DIS-  
TRICT and the DOUGLAS INDEPENDENT  
SCHOOL DISTRICT, to Be Known as  
JUNEAU - DOUGLAS INDEPENDENT  
SCHOOL DISTRICT,

Appellees.

PETITION FOR CONSOLIDATION  
OF APPEALS

Come now Appellants Robert S. Schy and Lois Lane, two of the Appellants herein, together with William Richards, Clancy Henkins and Joseph L. Riedi, three additional appellants herein, and jointly petition this Court for an Order consolidating their respective appeals, which were instituted in the above-entitled matter by their Notice of Appeal in the District Court for the Territory of Alaska, Division Number One, at Juneau, Alaska, dated May 20, 1955.

Dated at Juneau, Alaska, this 11th day of August, 1955.

Respectfully submitted,

ROBERTSON, MONAGLE &  
EASTAUGH,

Attorneys for Robert S. Schy, Lois Lane, William Richards, Clancy Henkins, and Joseph L. Riedi, Appellants herein,

By /s/ M. E. MONAGLE,  
Of Attorneys.

[Title of Court of Appeals and Cause.]

STIPULATION FOR CONSOLIDATION  
OF APPEALS

It Is Hereby Stipulated by and between Robert Boochever, attorney for Juneau Independent School District and Douglas Independent School District, known as Juneau-Douglas Independent School District, and M. E. Monagle, attorney for Appellants Robert S. Schy, Lois Lane, William Richards, Clancy Henkins, and Joseph L. Riedi, in the above-entitled case that the appeal heretofore and now being taken from the final Judgment and Decree of the District Court for the Territory of Alaska, Division Number One, at Juneau, Alaska, to the United States Court of Appeals for the Ninth Circuit by Appellants Robert S. Schy and Lois Lane and the appeal of William Richards, Clancy Henkins, and Joseph L. Riedi may be consolidated for the purpose of said appeal if said consolidation meets with the

